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15 **UNITED STATES DISTRICT COURT**  
 16 **DISTRICT OF NEVADA**

17 -----X  
 JOSEPH CESARZ and QUY NGOC ) Docket:  
 18 TANG, individually and on )  
 behalf of all others similarly )  
 19 situated, )  
 ) COMPLAINT  
 20 Plaintiffs, )  
 vs. )  
 21 )  
 WYNN LAS VEGAS, LLC, ANDREW )  
 22 PASCAL and STEVE WYNN, )  
 )  
 23 Defendants. )  
 24 -----

25 COMES NOW Plaintiffs, JOSEPH CESARZ and QUY NGOC TANG, for  
 26 themselves and all others similarly situated, through their  
 27 attorneys, and allege the following upon personal knowledge as to  
 28 themselves and their own acts, and upon information and belief as to

1 all other matters:

2 JURISDICTION AND VENUE

3 1. This Court has jurisdiction pursuant to Section 16(b) of  
4 the Fair Labor Standards Act, 29 U.S.C. §216(b), which provides, "An  
5 action to recover the liability prescribed in either of the  
6 preceding sentences may be maintained against any employer...in any  
7 federal or state court of competent jurisdiction by any one or more  
8 employees for and on behalf of himself or themselves and other  
9 employees similarly situated." A "Consent to Joinder" form for each  
10 plaintiff has been filed with this Complaint or previously filed  
11 with the Court.

12 2. Venue is proper in the United States District Court for  
13 Nevada because Defendants conduct business in Clark County Nevada,  
14 plaintiffs reside in Clark County, Nevada, plaintiffs worked for  
15 defendants in Clark County, Nevada, and the acts complained of  
16 herein happened in or around Clark County, Nevada.

17 **BACKGROUND AND PARTIES**

18 3. Plaintiffs JOSEPH CESARZ and QUY NGOC TANG (the  
19 "individual plaintiffs"), on behalf of themselves and all others  
20 similarly situated (collectively "Plaintiffs"), by their attorneys,  
21 bring this action against defendants.

22 4. The defendants ANDREW PASCAL and STEVE WYNN are, for  
23 the purposes of the claims made herein under the Fair Labor  
24 Standards Act, 29 U.S.C. § 201 et seq. (the "FLSA"), employers of  
25 the plaintiffs as they have acted on behalf of an employer and/or  
26 acted as an employer by willfully, intentionally, knowingly or  
27 otherwise promoting, allowing, directing or otherwise creating the  
28 compensation policies alleged herein that violate the FLSA, such

1 individual defendants also exercising the power they had with the  
2 other defendant WYNN LAS VEGAS, LLC by virtue of their status as  
3 officers and/or managers and/or owners of the same to continue,  
4 create, or allow such policies to flourish and remain in existence.

5 5. WYNN LAS VEGAS, LLC is a limited liability corporation  
6 formed and existing pursuant to the laws of the State of Nevada and  
7 having its principle place of business in Clark County, Nevada.

8 **AS AND FOR CLAIM FOR RELIEF UNDER THE FAIR LABOR STANDARDS ACT**

9 6. The defendants employ the plaintiffs and hundreds of other  
10 persons as casino dealers in their casino, the Wynn Las Vegas.

11 7. Pursuant to Section 16(b) of the FLSA, the individual  
12 plaintiffs bring this Complaint as a collective action (also  
13 commonly referred to as an "opt-in" class or "an FLSA class"), on  
14 behalf of themselves and all persons similarly situated who consent  
15 to join this litigation by filing a written consent with the Court  
16 and who also agree to be represented by plaintiffs' counsel, such  
17 persons making claims under the FLSA for the period after May 5,  
18 2011, until entry of judgment after trial.

19 8. Plaintiffs are informed and believe, and based thereon  
20 allege that there are at least 500 putative FLSA class members who  
21 could "opt in" to this case, the actual number of FLSA class members  
22 is readily ascertainable by a review of the defendants' records  
23 through appropriate discovery, and the plaintiffs propose to take  
24 proceedings in this action to have such persons notified of this  
25 litigation and given an opportunity to file written consents to join  
26 this litigation.

27 9. Defendants are an enterprise engaged in commerce within  
28 the meaning of the FLSA that uses and/or produces or ships goods in

1 interstate commerce or goods that have so moved in interstate  
2 commerce and have gross revenue in excess of \$500,000 a year and/or  
3 are otherwise employers subject to the provisions of the FLSA in  
4 respect to their employment of the plaintiffs.

5 10. Pursuant to 29 U.S.C. § 206 and § 207 the defendants are  
6 charged with an obligation to pay the minimum wage and overtime  
7 wages required by the FLSA to the plaintiffs.

8 11. Defendants have failed and refused to make the minimum  
9 wage and/or overtime payments required by the FLSA to the plaintiffs  
10 or otherwise comply with the requirements of the FLSA in respect to  
11 their employment of the plaintiffs because, since May 5, 2011, they  
12 have violated 29 U.S.C. § 203(m) and 29 U.S.C. § 206 of the FLSA and  
13 the implementing regulations thereto set forth in 29 CFR 531.52 and  
14 29 CFR 531.54, to wit, they have failed to allow the plaintiffs to  
15 retain for themselves, or retain for themselves through a tip pool  
16 structured in compliance with the provisions of the FLSA and  
17 otherwise authorized by the FLSA, all of the tips they have received  
18 from customers during the course of their employment by the  
19 defendants.

20 12. Defendants have required the plaintiffs, as a condition of  
21 their employment, to pool and share their tips with other employees  
22 who do not customarily and regularly receive tips, such tip pool  
23 and/or tip sharing not being authorized under the FLSA and its  
24 relevant implementing regulations and/or have required the  
25 plaintiffs to give a portion of their tips to other employees of the  
26 defendants in a manner that violates the FLSA.

27 13. Defendants, by implementing the policies alleged in  
28 paragraph 12, have effectively failed to pay any wages whatsoever to

1 the plaintiffs, in that defendants recoup from the plaintiffs,  
2 through the taking of a portion of the plaintiffs' tips, an amount  
3 far in excess of the amount it nominally pays to the plaintiffs from  
4 the defendants' own funds, such actions by the defendants violating  
5 the purpose and intent of the FLSA which is to make all employers  
6 pay FLSA required minimum wages and overtime wages and all other  
7 wages solely from the resources of the employer and not by  
8 appropriating employee tips to make such wage payments, the FLSA  
9 also preventing an employer from engaging in such an appropriation  
10 by using a tip pool, such as the one used by defendants, to  
11 compensate employees who do not regularly and customarily receive  
12 tips with a portion of the tips received by other employees who do  
13 regularly and customarily receive tips.

14 14. Defendants' aforesaid violations of the FLSA were  
15 intentional, willful and knowing. Such willful violations are  
16 established by, among other things, a history of prior and existing  
17 litigation against defendants over the tip taking and pooling  
18 policies at issue and the awareness of defendants' counsel of the  
19 regulations issued by the United States Department of Labor that  
20 were implemented and effective as of May 5, 2011 and that govern the  
21 claims made herein.

22 15. As a result of the foregoing the plaintiffs, on behalf of  
23 themselves and all other persons who join in this action by filing  
24 written consents with the Court and who agree to be represented by  
25 plaintiffs' counsel, seek to collect their full damages for the  
26 defendants' aforesaid violations of the FLSA that have occurred on  
27 and after May 5, 2011, to wit, the value of the tips taken from them  
28 by the defendants and given by the defendants to other employees of

1 the defendants who do not customarily and regularly receive tips, or  
2 given to other employees whom the plaintiffs cannot be required to  
3 share their tips with under the FLSA, or whatever other measure of  
4 actual damages they are due from defendants' aforesaid violations of  
5 the FLSA taking place on and after May 5, 2011, along with an equal  
6 amount of liquidated damages as provided for under 29 U.S.C. §  
7 216(b), together with attorneys' fees, costs, interest and such  
8 other relief as the Court may deem proper.

9  
10 WHEREFORE, plaintiffs demand the relief on each cause of action  
11 as alleged aforesaid, together with costs, interest, attorney's fees  
12 and such other relief as the Court deems just.

13  
14 Plaintiffs demand a trial by jury on all issues so triable.

15  
16 Dated this 21st day of January, 2013

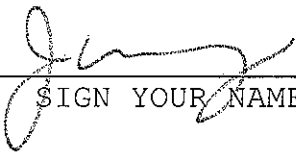
17 Leon Greenberg Professional Corporation

18 */s/Leon Greenberg*

19 By: \_\_\_\_\_  
20 LEON GREENBERG, Esq.  
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22 2965 South Jones Boulevard - Suite E4  
23 Las Vegas, Nevada 89146  
24 (702) 383-6085  
25 Attorney for Plaintiff  
26  
27  
28

CONSENT TO JOINDER

By signing below I hereby consent to join this case as a plaintiff pursuant to 29 U.S.C. 216(b) and be represented by the attorneys Leon Greenberg, Mark Thierman, J.P. Kemp and Robin Potter pursuant to a written retainer agreement I have executed with them.

  
SIGN YOUR NAME

Joseph Cesarz  
PRINT YOUR NAME

YOU MUST ALSO FILL OUT AND SIGN A RETAINER FORM

ORIGINAL OF THIS FORM SHOULD BE RETURNED TO:

LEON GREENBERG, ATTORNEY AT LAW  
2965 SOUTH JONES BOULEVARD #E-4  
LAS VEGAS, NV 89146

CONSENT TO JOINDER

By signing below I hereby consent to join this case as a plaintiff pursuant to 29 U.S.C. 216(b) and be represented by the attorneys Leon Greenberg, Mark Thierman, J.P. Kemp and Robin Potter pursuant to a written retainer agreement I have executed with them.

*M. Sm* 1/17/2013  
SIGN YOUR NAME

*QUY NGOC TANG*  
PRINT YOUR NAME

YOU MUST ALSO FILL OUT AND SIGN A RETAINER FORM

ORIGINAL OF THIS FORM SHOULD BE RETURNED TO:

LEON GREENBERG, ATTORNEY AT LAW  
2965 SOUTH JONES BOULEVARD #E-4  
LAS VEGAS, NV 89146